

WILLIAM HEIDELBERG

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KATHY DYER AND ROBERT DYER )  
INDIVIDUALLY AND AS )  
REPRESENTATIVE OF THE )  
ESTATE OF GRAHAM DYER, )

Plaintiffs, )

VS. )

CITY OF MESQUITE, TEXAS; )  
JACK FYALL; RICHARD HOUSTON; )  
ALAN GAFFORD; ZACHARY SCOTT; )  
WILLIAM HEIDELBERG; PAUL )  
POLISH; JOE BAKER; BILL )  
HEDGPETH, )

Defendants. )

CIVIL ACTION NO.  
3:15-CV-02638-B

\*\*\*\*\*

VOLUME 1  
ORAL DEPOSITION OF  
WILLIAM HEIDELBERG  
JULY 11, 2017

\*\*\*\*\*

ORAL DEPOSITION OF WILLIAM HEIDELBERG, produced  
as a witness at the instance of the Plaintiffs, and  
duly sworn, was taken in the above-styled and  
numbered cause on the 11th day of July, 2017, at  
12:56 p.m. to 3:44 p.m., before Laurie Purdy, CSR, in  
and for the State of Texas, reported by machine  
shorthand, at the Mesquite Police Department, 777  
North Galloway, in the City of Mesquite, County of  
Dallas, State of Texas, pursuant to the Federal Rules  
of Civil Procedure and the provisions stated on the  
record or attached hereto.

LAURIE PURDY REPORTING SERVICE, INC.

WILLIAM HEIDELBERG

1 you?

2 A. He obviously seemed intoxicated on  
3 something. Didn't appear to be alcohol. I've never  
4 dealt with an intoxicated person by alcohol that was  
5 functioning or acting that way. I believed it to be  
6 some type of narcotics.

7 Q. And Mr. Carpenter told officers at the  
8 scene that it was acid, correct?

9 A. He didn't tell me that. I know that he had  
10 mentioned that to, I believe, Houston.

11 Q. And Officer Houston gave that information  
12 to you?

13 A. Yes, ma'am.

14 Q. So at some point before you transported  
15 him, you were aware that Graham Dyer had taken acid?

16 A. I don't know -- I don't believe it was  
17 before. I think it was once we all got back to the  
18 station.

19 Q. Okay. So Officer Houston didn't give you  
20 that information until you got back?

21 A. I don't believe so.

22 Q. But Mr. Carpenter told Officer Houston that  
23 at the scene?

24 A. I believe so. That information was relayed  
25 to me from Houston, but I believe it was once we got

WILLIAM HEIDELBERG

1 back here to the station.

2 Q. Did you have any physical encounter with  
3 Graham at the middle school before he was placed into  
4 your car?

5 A. Yes, ma'am.

6 Q. And what was your physical encounter with  
7 him?

8 A. Assist the other officers in restraining  
9 him.

10 Q. And what did you do to assist the other  
11 officers?

12 A. I believe I was standing on his foot or his  
13 ankle. Somewhere in that area.

14 Q. Did you do anything to restrain Graham Dyer  
15 other than standing on his foot or his ankle?

16 A. Not that I remember.

17 Q. Did you consider it to be any kind of a  
18 significant physical struggle between the officers  
19 and Graham Dyer at the middle school?

20 A. Significant, no. It was just a matter of  
21 trying to keep his body down because he kept raising  
22 his body up.

23 Q. And when you had your foot on him, did any  
24 of the other officers have their hands or feet on  
25 him?

WILLIAM HEIDELBERG

1 think that's me on the right side of the screen now  
2 using my left foot on his ankle.

3 Q. And what's Graham doing at this point?  
4 It's at like 2:10.

5 A. Right now he's laying on his back on the  
6 ground.

7 Q. Is he struggling at all?

8 A. It doesn't look as good on the video, but I  
9 don't know if you -- I mean, it's hard to kind of  
10 explain this, but a lot of times when we have to put  
11 hands on people to arrest them and stuff like that,  
12 you can feel their whole body tense up. So it was  
13 just kind of a precaution so that he doesn't -- you  
14 know, wasn't able to pull away or anything like that.

15 Q. Okay. So at this point, Graham is not  
16 resisting so much as tensing up --

17 A. Yes, ma'am.

18 Q. -- and you want to make sure he does not  
19 resist?

20 A. Well, make sure he doesn't get up.

21 (Video begins to play.)

22 (Video stops playing.)

23 Q. So right after you put your foot on  
24 Graham's leg or ankle-ish, another officer bends down  
25 and is doing something. Do you know who that is?

WILLIAM HEIDELBERG

1 (Video begins to play.)

2 (Video stops playing.)

3 Q. And then you hear someone say, His freaking  
4 eyes are freaking dilated like crazy --

5 A. (Witness nods head.)

6 Q. -- at like 3:13?

7 Do you know who that was?

8 A. It sounded like Gafford.

9 Q. Did you ever feel it was necessary to do  
10 anything other than put your foot on Graham to  
11 restrain him?

12 A. Not at that time.

13 Q. At any time before Graham is walked over to  
14 the police car, did you feel it was necessary to do  
15 anything other than put your foot on him?

16 A. From where I was standing, no.

17 Q. Do you know if any other officer during  
18 that period of time did anything to restrain Graham  
19 other than just put their foot on him?

20 MR. TOOLEY: Objection, form.

21 A. I believe at some point somebody grabbed  
22 his head or his hair because he was raising his upper  
23 body up off the ground.

24 Q. (By Ms. Hutchison) Do you know who that  
25 was?

WILLIAM HEIDELBERG

1 A. Yes, ma'am.

2 Q. -- at 3:54? And what are you saying is  
3 being done to restrain him besides the use of the  
4 feet?

5 A. Somebody is restraining his head.

6 Q. How is his head being restrained?

7 A. Looks like with his left foot.

8 Q. Okay. Maybe I didn't ask that very well.  
9 What I'm asking is, did any of the officers do  
10 anything to restrain Graham other than by use of  
11 their feet?

12 A. Oh, not at this time, no.

13 MR. TOOLEY: You mean other than  
14 handcuff him?

15 MS. HUTCHISON: Right. Correct, and  
16 that's true.

17 Q. (By Ms. Hutchison) He was handcuffed by  
18 Officer Houston?

19 A. (Witness nods head.)

20 Q. Let me rephrase it, then. After you  
21 arrived, did you observe any officer do anything to  
22 restrain Graham prior to him being walked to the car  
23 with anything other than their feet?

24 A. Not up to this time, no. But I believe  
25 right after this, he holds his head down with his

WILLIAM HEIDELBERG

1 Q. Did you understand anything that he was  
2 yelling?

3 A. I heard a lot of F bombs, F words, but, I  
4 mean, I can't tell you what I remember exactly  
5 hearing that day.

6 Q. Did he ever say or do anything that made  
7 you indicate that he knew what was happening to him  
8 or where he was?

9 A. No, ma'am.

10 (Video begins to play.)

11 (Video stops playing.)

12 Q. So let me ask you this: Who called the  
13 paramedics?

14 A. I don't know which officer called them.

15 Q. It wasn't you?

16 A. I don't believe so.

17 Q. Do you know why the paramedics were called?

18 A. I just imagine due to his actions. You  
19 know, us believing he was intoxicated on some type of  
20 substance.

21 Q. Right. So why would that involve the  
22 paramedics?

23 A. Just due to his erratic behavior and  
24 rolling around. You know, he had sweat. You know,  
25 he's got long hair. His hair was soaking wet. His

WILLIAM HEIDELBERG

1 Q. We're now at six minutes and 17 seconds  
2 that Graham has been basically lying in the grass  
3 with the officers restraining him with their feet,  
4 correct?

5 A. Yes, ma'am.

6 MR. TOOLEY: Objection, form.

7 Q. (By Ms. Hutchison) Was there anything  
8 preventing you from telling Graham where he was and  
9 what was happening?

10 A. No, ma'am.

11 Q. Did you hear any officer tell Graham where  
12 he was or what was happening to him?

13 A. Not specifically. I remember Houston  
14 talking to him a little bit as we were getting  
15 there -- as myself and Officer Scott were arriving,  
16 but I don't remember exactly what he said to him.

17 Q. Do you recall Officer Houston talking to  
18 him calmly and asking him his name, and it's the one  
19 and only rational response that was obtained during  
20 that encounter?

21 MR. TOOLEY: Objection, form.

22 A. I remember him asking for his name, and I  
23 remember him responding to it.

24 Q. (By Ms. Hutchison) He even gave his middle  
25 name, didn't he?



## WILLIAM HEIDELBERG

1 A. Yes, ma'am.

2 Q. Did you ever hear any other rational  
3 response from Graham other than that one?

4 A. Not that I recall.

5 Q. And did you observe that when Graham gave  
6 that one and only rational response, that Officer  
7 Houston was talking to him calmly and saying, Calm  
8 down, and then asked him what his name was?

9 A. Yes, ma'am.

10 Q. So did you consider doing the same thing  
11 and talking to Graham calmly and asking him other  
12 questions and giving him information?

13 A. I believe when I did talk to him, I was  
14 calm about it.

15 Q. When was that?

16 A. When I asked him what he had used or smoked  
17 that night.

18 Q. Okay. And my question -- I should have  
19 been more specific. I'm talking about in terms of  
20 telling him what was going on and where he was. Did  
21 you consider talking to him about that?

22 A. No, ma'am.

23 Q. Is there any reason why you didn't?

24 A. At the time, I didn't figure he knew a  
25 whole lot about where he was at due to his level of

WILLIAM HEIDELBERG

1 intoxication. I didn't -- no, I didn't think about  
2 talking to him that way.

3 Q. So during the various times that he was  
4 yelling, What the F is going on, and, Where the F am  
5 I, did you hear any officer calmly respond to those?

6 A. Not up to this point, no, ma'am.

7 Q. Did any of the officers ask Graham if he  
8 would go to the police station or accompany them to  
9 the police station?

10 A. I don't believe so.

11 Q. Did any of the officers ask him to stand up  
12 and walk to the car?

13 A. I don't recall.

14 Q. I'm sorry?

15 A. I don't recall.

16 Q. Was there anything that prevented any of  
17 the officers from asking Graham to stand up and walk  
18 to the car?

19 MR. TOOLEY: Objection, form.

20 A. Prior to the ambulance getting there?

21 Q. (By Ms. Hutchison) No. after it was  
22 determined that he was going to be transported to the  
23 station.

24 A. I don't know if anybody asked him to get up  
25 or not.

WILLIAM HEIDELBERG

1 (Video begins to play.)

2 (Video stops playing.)

3 Q. So did you hear him at about 6:25 say,  
4 Where the F am I?

5 A. 5:25 maybe?

6 Q. Is that a five?

7 A. I believe so.

8 Q. Sorry. It's tiny writing. Okay. 5:25.  
9 I've been saying six. It's a five.

10 All right. Did you hear Graham at  
11 5:25 say, Where the F am I?

12 A. Can you play it again for me?

13 Q. Yes. And then there is a response by  
14 someone that says, I don't know. So I wanted to ask  
15 you who it was that said that.

16 (Video begins to play.)

17 (Video stops playing.)

18 Q. Did you hear that?

19 A. Yes, ma'am.

20 Q. Who was it that said, I don't know?

21 A. That was me.

22 Q. Why did you say "I don't know" when he  
23 asked where he was?

24 A. I'd have to say due to the -- I was asking  
25 him questions prior to that, and he didn't want to

WILLIAM HEIDELBERG

1 answer me on those, so --

2 (Video begins to play.)

3 (Video stops playing.)

4 Q. Okay. So at this point at 6:48, Officer  
5 Fyall arrives?

6 A. Yes, ma'am.

7 Q. So up until now, other than the two seconds  
8 when Officer Scott used his arm to hold Graham's head  
9 down and grab his wallet, has any officer done  
10 anything to restrain Graham other than by using their  
11 foot since your arrival?

12 A. No, ma'am.

13 (Video begins to play.)

14 (Video stops playing.)

15 Q. Okay. So at 7:14, somebody is talking  
16 about him having a big old knot. Do you know who  
17 that is?

18 A. Gafford.

19 Q. And he's telling the paramedics that?

20 A. Yes, ma'am.

21 Q. And at this point, the paramedics have  
22 arrived and one of them is bending down and doing  
23 something to Graham, correct?

24 A. Yes, ma'am.

25 Q. Do you know what he's doing?

WILLIAM HEIDELBERG

1 A. No, ma'am.

2 Q. Do you know this paramedic?

3 A. No, ma'am.

4 Q. Do you know the other one?

5 A. No, ma'am. I've seen them, but, I mean, I  
6 couldn't tell you their names or anything like that.

7 Q. Okay. What can you recall that you  
8 observed the paramedic doing to Graham or for Graham  
9 or with Graham?

10 A. It appeared to me that he was possibly  
11 trying to check his vital signs.

12 Q. Do you know whether he was successful in  
13 doing that?

14 A. I don't know.

15 Q. Did he indicate to you that he had any  
16 problem with being able to check Graham's vital  
17 signs?

18 A. Not that I recall.

19 Q. Was Graham doing anything to resist the  
20 paramedic?

21 A. It doesn't look like it from the video.  
22 Like I say, the only thing -- it wasn't that he was,  
23 you know, actively physically resisting us, it was  
24 just that complete body tensing up.

25 Q. Okay. And he also didn't do anything to

WILLIAM HEIDELBERG

1 Q. Did they indicate to you they were not able  
2 to assess Mr. Carpenter in any way?

3 A. Not that I remember.

4 Q. And Mr. Carpenter was cooperative, was he  
5 not?

6 A. Yeah, he appears cooperative. I didn't  
7 deal with Mr. Carpenter.

8 Q. But you didn't observe or remember anything  
9 that he did that was uncooperative?

10 A. Mr. Carpenter?

11 Q. Yes.

12 A. No, ma'am. I didn't deal with him.

13 Q. And you did not observe him being  
14 belligerent at all?

15 A. No.

16 (Video begins to play.)

17 (Video stops playing.)

18 Q. And then at about 8:10 or so, someone says,  
19 Whatever you're on, you probably shouldn't do that  
20 again. Did you hear that?

21 A. If you back it up. I didn't hear it.

22 Q. Sure.

23 (Video begins to play.)

24 (Video stops playing.)

25 A. Yes, ma'am, I heard it.

WILLIAM HEIDELBERG

1 (Video begins to play.)

2 (Video stops playing.)

3 Q. Okay. So during this period that we've  
4 just been looking at, so from about a minute nine on,  
5 can you tell what any of that discussion is about?

6 A. Between who?

7 Q. From about -- it's at about 9:17 right now  
8 so, for like the last 17 seconds, could you tell what  
9 any of that discussion was about?

10 A. I could see a discussion. I couldn't hear  
11 what it was.

12 Q. What do you observe about the discussion?

13 A. It looks like the paramedics came over to  
14 where Graham was, but I don't know what the  
15 discussion was about.

16 Q. Do you remember the paramedics telling you  
17 anything about Graham?

18 A. No, ma'am.

19 Q. So after the paramedics checked him out,  
20 what was your understanding of what they found?

21 A. As far as I know, they said they were not  
22 going to transport him, there was no need to. At  
23 that point he was in our custody.

24 Q. So do you recall the paramedics saying  
25 there was no need to transport him?

WILLIAM HEIDELBERG

1 A. No, I don't remember them specifically  
2 saying that.

3 Q. Do you remember what they specifically told  
4 you?

5 A. No, ma'am.

6 Q. So do you recall having any information  
7 about why the paramedics were not transporting him?

8 A. I don't recall having a reason why.

9 Q. Did any of the officers, to your knowledge,  
10 get any information from the paramedics about what  
11 kind of condition Graham was in, medically speaking?

12 MR. TOOLEY: Objection, form.

13 A. I don't recall. Not that I know of.

14 Q. (By Ms. Hutchison) Is there any reason why  
15 you didn't just simply ask the paramedics, Hey,  
16 what's going on with this guy?

17 A. Why I didn't ask?

18 Q. Yes.

19 A. No. I just -- no. I mean, I can't think  
20 of a reason why I didn't. I just assumed whenever  
21 they cleared -- that he was medically cleared.

22 Q. But you made that assumption simply based  
23 on the fact that they did not transport him?

24 A. That he was cleared to go to jail?

25 Q. Did anybody say he was cleared to go to



## WILLIAM HEIDELBERG

1 jail?

2 A. I don't know if they said those words, but  
3 when they say there's no need for medical transport,  
4 that, in turn, leaves him in our custody, so at that  
5 point I believed he was cleared to go to jail.

6 Q. Did they say there was no need to medically  
7 transport him?

8 A. I don't know if they said those words.

9 (Video begins to play.)

10 (Video stops playing.)

11 Q. Okay. Did you hear at about 9:59 one of  
12 the paramedics say, We're not going to be able to  
13 check him?

14 A. I thought they said, We're not going to be  
15 able to take him. It may be "check him." I'm not  
16 certain.

17 Q. Okay. I'll back it up.

18 (Video begins to play.)

19 (Video stops playing.)

20 A. It could be "check." I'm not sure.

21 Q. Do you recall the paramedics ever saying  
22 that they were not going to be able to check Graham?

23 A. No, ma'am.

24 Q. So at that point when the paramedic said  
25 that, Graham was still on the ground, correct?

WILLIAM HEIDELBERG

1 check him out?

2 MR. TOOLEY: Objection, form.

3 A. I'm sorry. I'm not -- I just want to make  
4 sure I understand. Are you asking me what was my  
5 thought of what we were going to do with him?

6 Q. (By Ms. Hutchison) I'm asking you, did you  
7 have the ability yourself to determine what the  
8 appropriate response would be to a paramedic that  
9 says, I can't check him out?

10 MR. TOOLEY: Same objection.

11 A. I guess looking back at it now, I mean, I'm  
12 sure we could have requested they transport him or do  
13 something else, but, you know, that decision was not  
14 mine to be made.

15 Q. (By Ms. Hutchison) So I don't want to do  
16 it in hindsight. I want to ask you at the time that  
17 you were standing there next to Graham, did you,  
18 Officer Heidelberg, have the ability to independently  
19 determine the appropriate response when the paramedic  
20 says, We can't check him out?

21 A. No.

22 Q. Is it reasonable -- strike that.

23 The officers called the paramedics to  
24 the scene to medically assess Graham, correct?

25 A. Yes, ma'am.

WILLIAM HEIDELBERG

1 Q. Because his condition appeared to merit  
2 medical attention at the time, correct?

3 A. Yes, ma'am.

4 Q. So since the paramedics could not check him  
5 out at the scene, wouldn't a reasonable response be  
6 to transport Graham to a medical facility?

7 MR. TOOLEY: Objection, form.

8 A. Could be, yes.

9 Q. (By Ms. Hutchison) Did the paramedics ever  
10 express hesitation to transport someone who needed  
11 medical attention but they considered to be  
12 aggressive?

13 A. This call or in general?

14 Q. In general.

15 MR. TOOLEY: Objection, form.

16 A. Yes, ma'am.

17 Q. (By Ms. Hutchison) Have you found  
18 paramedics to be resistant to that situation where  
19 they think someone is aggressive even though they  
20 need medical attention?

21 MR. TOOLEY: Objection, form.

22 A. I'm sure there has been. I mean, I can't  
23 name you a specific instance, but I'm sure it's  
24 happened.

25 Q. (By Ms. Hutchison) So what's the protocol

WILLIAM HEIDELBERG

1 go, right?

2 A. Yes, ma'am.

3 Q. Who said that?

4 A. I believe it was Gafford, I think.

5 Q. So is that you that's helping to pick  
6 Graham up?

7 A. Yes, ma'am.

8 Q. Is it you and Gafford?

9 A. I believe so.

10 Q. Is there any reason you didn't just tell  
11 Graham to stand up or ask him if he'd walk to the  
12 car?

13 A. Anytime we arrest somebody, we don't just  
14 tell them to walk to the car. There's always a hand  
15 on them at some point.

16 Q. Right. But I meant other than physically  
17 picking him up, any reason you just didn't say, Hey,  
18 we're going to stand you up and walk you to the car,  
19 or anything like that?

20 A. No, ma'am.

21 Q. Was he resisting at the time you stood him  
22 up?

23 A. Nothing other than just his body tensing.

24 (Video begins to play.)

25 (Video stops playing.)

WILLIAM HEIDELBERG

1 Q. So you can see there at 11:15 you guys  
2 standing him up, right?

3 A. Yes, ma'am.

4 Q. And so for the 11 or so minutes he was  
5 laying there, did you see anything on that video  
6 showing any officer doing anything to restrain Graham  
7 other than handcuffing him, using a foot to keep him  
8 on the ground, and the two seconds that Officer Scott  
9 put his hand on Graham's head?

10 A. No, ma'am.

11 (Video begins to play.)

12 (Video stops playing.)

13 Q. Now, you can see at 11:15 -- is it two  
14 officers or more than that walking Graham to the car?

15 A. If you go back a little bit, it was two of  
16 us at first. He kind of took a pretty quick step,  
17 and that's when you see -- I believe it's Fyall come  
18 up and grab ahold of his left arm.

19 Q. Because Graham took a quick step?

20 A. Yeah. If you rewind it. A little further.

21 (Video begins to play.)

22 (Video stops playing.)

23 A. A little bit further back.

24 Q. All right.

25 (Video begins to play.)

WILLIAM HEIDELBERG

1 A. Yes, ma'am.

2 Q. Were you part of that process?

3 A. I believe I was searching him, patting him  
4 down while they held him against the car.

5 Q. And what was he doing while you were  
6 patting him down?

7 A. I don't know. I was squatted down checking  
8 his legs and his pockets and his waistband.

9 Q. Was he kicking you or anything?

10 A. No, I don't believe so.

11 Q. And was it at that point in time that he  
12 bit Officer Fyall?

13 A. I don't know if it was at that particular  
14 point, but it was while he was against the back of  
15 the car.

16 Q. And what was Officer Fyall doing when  
17 Graham bit him?

18 A. I don't know. I would assume trying to  
19 hold him down against the car.

20 Q. But you didn't see what he was doing?

21 A. No, I couldn't see it. Like I said, I was  
22 patting him down and searching his pockets before he  
23 got into my car.

24 Q. Did Officer Fyall ever tell you what he was  
25 doing when Graham bit him?

WILLIAM HEIDELBERG

1 Q. Who told you that?

2 A. I believe it may have been Houston.

3 Q. So at what point in time was it that Graham  
4 did something to resist other than tense up?

5 A. To resist or -- just flat out resist?

6 Q. Right.

7 A. Nothing. That was it.

8 Q. When he bit Officer Fyall, right?

9 A. I didn't -- when you say resist or assault  
10 on a public servant, I see two different things. If  
11 you're asking me when did he bite him, it was when he  
12 was on the trunk of the car.

13 Q. Okay. Let me rephrase that, then. Other  
14 than him biting Officer Fyall, what's the first thing  
15 that Graham did in your mind where he was resisting  
16 the officers?

17 A. When he was kicking his legs while we were  
18 trying to put him in the car.

19 Q. And where were you during that process?

20 A. I believe I was still behind Officer Fyall.

21 Q. So Officer Fyall was the one that was  
22 trying to place him into the car?

23 A. I believe so.

24 (Video begins to play.)

25 Q. So in this video, the back of the police

WILLIAM HEIDELBERG

1 car appears at the top.

2 (Video stops playing.)

3 Q. Did you hear at 11:40 someone say, Are you  
4 going to strap him in, or are you just going to throw  
5 him in there?

6 A. Yes, ma'am.

7 Q. Who said that?

8 A. I don't know.

9 Q. And who responded to that?

10 A. I don't know.

11 Q. Do you know whether it was said to you?

12 A. It could have been. I'm not sure.

13 Q. And do you remember what the response was?

14 A. No, ma'am.

15 Q. And did you make a conscious decision not  
16 to strap Graham in there?

17 A. Yes, ma'am.

18 Q. And was that a common practice of yours?

19 A. Yes, ma'am.

20 Q. Not to seat belt in the citizens that  
21 you're transporting to the police station?

22 A. It was common practice. Even in training  
23 we didn't seat belt prisoners.

24 Q. Well, at this point nobody is a prisoner,  
25 right?



WILLIAM HEIDELBERG

1 MR. TOOLEY: Objection, form.

2 A. At this point he is in our custody, so I  
3 believe he is our prisoner.

4 Q. (By Ms. Hutchison) Isn't he a suspect  
5 until someone determines he's guilty of something?

6 A. I don't think -- in my mind, the way I view  
7 prisoner, that doesn't mean guilty or innocent, or  
8 suspect or convicted or anything like that. When I  
9 hear the word "prisoner," that means he's in our  
10 custody. He's our responsibility.

11 Q. And if someone is your responsibility,  
12 aren't you also responsible for their safety?

13 A. Yes, ma'am.

14 Q. And don't you seat belt people in in order  
15 to keep them safe?

16 A. Yes, ma'am.

17 Q. So it's a conscious decision to forego a  
18 safety precaution, correct?

19 MR. TOOLEY: Objection, form.

20 A. I think you can -- the way I see it is we  
21 have a dangerous job, and we've been taught from day  
22 one in the academy, it is a dangerous job. You don't  
23 do anything to add danger to the aspect of the job.  
24 So by us not -- by not leaning across him, yes, I  
25 believed that was an officer safety issue.

WILLIAM HEIDELBERG

1 Q. (By Ms. Hutchison) So you understand that  
2 it's dangerous not to wear a seat belt, right?

3 A. Yes, ma'am.

4 Q. So it's a conscious decision to endanger  
5 the person that you're transporting?

6 MR. TOOLEY: Objection, form.

7 A. I don't think it was a conscious decision  
8 to endanger him. I believe it was a conscious  
9 decision to not seat belt him.

10 Q. (By Ms. Hutchison) Well, you disagreed  
11 with me that not seat belting somebody is placing  
12 them in danger, right?

13 A. Okay.

14 Q. Is that correct?

15 A. Yes, ma'am.

16 Q. And is it your opinion that at no time was  
17 there an opportunity to place a seat belt on Graham?

18 A. Not safely.

19 Q. So these are shoulder belts in your car,  
20 right?

21 A. Yes, ma'am.

22 Q. And they click in the middle?

23 A. Yes, ma'am.

24 Q. So the strap would go from Graham's right  
25 shoulder down to his left side?

WILLIAM HEIDELBERG

1 A. At that point just his legs.

2 (Video begins to play.)

3 (Video stops playing.)

4 Q. So at that point you get in to transport  
5 Graham to the jail?

6 A. Yes, ma'am.

7 Q. So in your vehicle, there's a dome light,  
8 correct?

9 A. Yes, ma'am.

10 Q. You have to turn it off and on, but it's in  
11 there?

12 A. Yes, ma'am.

13 Q. And if you turn it on, you're able to see  
14 into the back seat, correct?

15 A. No, ma'am.

16 Q. You can't see into the back seat if you  
17 have the dome light on?

18 A. It's an orange light. It's up in the  
19 front. It doesn't shine to the back of the car.

20 Q. And you have no visibility into the back of  
21 the car at all with the dome light on?

22 A. From the camera. I've got the night vision  
23 camera.

24 Q. And where is the night vision camera?

25 A. Where the in-car camera is.

WILLIAM HEIDELBERG

1 Q. And where is -- I don't know where the  
2 in-car camera is.

3 A. Like where the rearview mirror is, just to  
4 the right and above it there's a camera there.

5 Q. So the night vision camera is something  
6 that allows you to see what's going on in the back  
7 seat?

8 A. Yes, if you switch it from the front view  
9 to the rear view.

10 Q. And when you were transporting Graham,  
11 where was your night vision camera? I mean, where  
12 was it aimed?

13 A. It was the front view.

14 MR. TOOLEY: Susan, that's the camera  
15 we've been looking at.

16 MS. HUTCHISON: Oh, okay.

17 Q. (By Ms. Hutchison) So you could see what  
18 was going on with Graham in the back of the car?

19 A. I did not -- like on my screen that's in  
20 the car, there's a camera that faces out to the front  
21 like for when you do contacts, like the other videos  
22 we're watching, and there's that camera in the back.  
23 It does not show -- like on your screen while you're  
24 driving, it does not show both cameras. It shows  
25 what's in front of you.

WILLIAM HEIDELBERG

1 Q. So what can you do to see what's going on  
2 with your prisoner in the back seat?

3 A. I think there's a way to switch it to the  
4 rear view.

5 Q. All right. So the video we're currently  
6 looking at which is Disk 2, Video 1, I believe, that  
7 is Graham Dyer in the back of your patrol car,  
8 correct?

9 A. Yes, ma'am.

10 Q. So at this point in time, where was your  
11 night vision camera pointing?

12 A. There's two separate cameras. There's one  
13 in the back of the car, which is this one  
14 (indicating). There's one on the windshield which  
15 faces out to the front.

16 Q. But where can you look to see what's going  
17 on in the back of the car?

18 A. You'd have to get onto the camera, the  
19 display, and flip it -- change it from your normal  
20 view that it's set on and go to the opposite camera  
21 view. It picks up the rear.

22 Q. And how do you do that?

23 A. I don't remember. I haven't been in the  
24 car in a while. I'd have to look at it.

25 Q. But like do you flip a switch or --

WILLIAM HEIDELBERG

1 A. There's a couple of buttons you go through,  
2 like through a menu to get them switched.

3 Q. It's a matter of seconds?

4 A. Yeah, it could be.

5 Q. And did you do that when you were  
6 transporting Graham?

7 A. No, ma'am.

8 Q. Why didn't you flip it to where you could  
9 see the back seat?

10 A. I generally don't ever flip it to see the  
11 back seat.

12 Q. Why not?

13 A. Something I've never done.

14 Q. Did you want to know what was going on back  
15 there?

16 A. Honestly, I wanted to get him to the jail  
17 as quickly as possible.

18 Q. So you had the ability to use your night  
19 vision -- to see through the night vision camera what  
20 was happening with Graham in the back of the car, you  
21 just chose not to do it?

22 A. Yes, ma'am.

23 Q. But you could definitely feel and hear that  
24 Graham was flinging himself around?

25 A. I don't know as much of feel it, but I

WILLIAM HEIDELBERG

1 could hear it.

2 Q. And what did you believe was happening  
3 prior to the time you pulled over?

4 A. What made me pull over was him slamming  
5 into the cage.

6 Q. And you knew that he was hitting his head?

7 A. I assumed it was his head, yes, ma'am.

8 Q. Because you actually, during the drive  
9 before you pulled over, told him to quit hitting his  
10 head, correct?

11 A. Yes, ma'am.

12 Q. And so was it a metal cage that he was  
13 slamming his head into?

14 A. Yes, ma'am.

15 Q. And he was also slamming it into the back  
16 of the seat and on the side of the car, true?

17 A. Yes, ma'am.

18 Q. And he was doing it as hard as he could,  
19 right?

20 MR. TOOLEY: Objection, form.

21 A. I don't know that it was as hard as he  
22 could, but he was hitting it hard.

23 Q. (By Ms. Hutchison) Have you ever seen  
24 somebody hit their head like that?

25 A. I've had people hit their head on the cage,

## WILLIAM HEIDELBERG

1 but after watching it, no, not like that.

2 Q. You were aware that what he was doing could  
3 cause a head injury, correct?

4 MR. TOOLEY: Objection, form.

5 A. I'm sure it certainly could.

6 Q. (By Ms. Hutchison) And you could have  
7 gotten on the radio at any point in time to see  
8 whether you should take him to the hospital or call  
9 the paramedics again, correct?

10 A. Yeah, I could have called for paramedics.

11 Q. And you did not do that?

12 A. No, ma'am. I believe I would get to the  
13 jail quicker than it would take a paramedic to get in  
14 a truck and respond where we were at.

15 Q. Were there paramedics at the jail?

16 A. No.

17 Q. So why did you pull over?

18 A. Because he was hitting his head on the  
19 cage.

20 Q. And so what was your intent to do?

21 A. Try to stop him from hitting his head on  
22 the cage.

23 Q. And how were you going to do that?

24 A. I don't know. There were times when he --  
25 like throughout this whole contact with him, there



## WILLIAM HEIDELBERG

1 were times where he was very amped up and then there  
2 were times where he would almost like take a breath  
3 and be calm. So I was hoping by maybe us stopping  
4 and getting back there and restraining him, maybe he  
5 would calm down for a period of time.

6 Q. What do you mean by restraining him?

7 A. Either holding him back in the seat --  
8 against the seat or limiting his movements where he  
9 could not hit his head on anything.

10 Q. Well, if you're going to hold him back  
11 against the seat, aren't you putting your arms and  
12 hands inside the car?

13 A. Yes, ma'am.

14 Q. So it's your testimony that opening the car  
15 door and holding Graham against the back of the seat  
16 does not pose an officer safety issue, but seat  
17 belting him in would?

18 A. I didn't plan on leaning across him, no.  
19 You could put your hand on his chest or something and  
20 hold him back against that seat.

21 Q. You think using one hand and putting it on  
22 Graham's chest is going to hold him back against the  
23 seat?

24 A. It could.

25 Q. In the condition he's in in this video?

WILLIAM HEIDELBERG

1           A.    I don't know the time frame between, you  
2 know, how long -- I don't know the longest point that  
3 he stayed calm. I know there were times that he  
4 would calm down before he became agitated again.

5           Q.    (By Ms. Hutchison) When he is screaming,  
6 that's not calm, is it?

7           A.    No, but not every time he screams is he  
8 thrashing around either.

9           Q.    But you wouldn't describe that as calm?

10          A.    No.

11          Q.    So your intent when you pulled over was to  
12 hold him back against the seat to see if he would  
13 calm down?

14          A.    To do something to restrain him to see if  
15 he would calm down, whether that be putting your hand  
16 on his chest or whatever it took to keep him from  
17 hitting his head.

18          Q.    And so what did you do when you pulled  
19 over?

20          A.    If I remember correctly, I exited the car  
21 and walked around to the passenger side and opened  
22 the door.

23          Q.    And when you opened the door -- well, let  
24 me ask you this first: Prior to that, prior to you  
25 pulling over, did Graham make any attempt to kick out

WILLIAM HEIDELBERG

1 the windows at all?

2 A. I don't think so. His legs were down most  
3 of the time.

4 Q. Because the restraint was closed in the car  
5 door, correct?

6 A. Yes, ma'am.

7 Q. And when you opened the door, up until that  
8 point, it had still been restrained in the car door?

9 A. Yes, ma'am.

10 Q. And other than you opening the door which  
11 released the restraint, did Graham get out of his  
12 restraints in any way?

13 A. No, ma'am.

14 Q. Did he ever attempt to flee?

15 A. I know when I first opened the door, he  
16 kind of -- he leaned out the door. You can see my  
17 hand stopping -- stop his head and push him back into  
18 the car. But, no, he didn't try -- up until that  
19 point, I mean, no attempt to escape or anything like  
20 that.

21 Q. Well, other than leaning to his right, is  
22 that what you're calling an attempt to flee?

23 A. No. What I'm saying is, at no time did I  
24 think he attempted to flee or escape. I'm saying he  
25 leaned to the right, and I put my hand out to stop

WILLIAM HEIDELBERG

1 his head from leaning out of the car.

2 Q. But you're not saying that him leaning to  
3 the right was an attempt to flee?

4 MR. TOOLEY: Objection, form.

5 A. I'm saying at no time did I feel he was  
6 attempting to escape or flee. When he leaned towards  
7 the opening when the door was opened, I put my hand  
8 out to stop him from leaning out of the car.

9 Q. (By Ms. Hutchison) Just to clarify that I  
10 understand what you're saying, including when you  
11 opened the car door and he leaned over, at no time  
12 did he attempt to flee?

13 MR. TOOLEY: Objection, form.

14 A. No, I didn't feel he was.

15 (Video begins to play.)

16 (Video stops playing.)

17 Q. (By Ms. Hutchison) Okay. You heard at  
18 like 1:16 or so you say, Stop hitting your head. Did  
19 you hear that?

20 A. No. Can you back it up?

21 (Video begins to play.)

22 (Video stops playing.)

23 A. Yes, ma'am.

24 Q. And did he respond to that?

25 A. No, ma'am.

WILLIAM HEIDELBERG

1 halfway down in the back seat and moving over the  
2 other way and hitting his head against the window,  
3 you're saying that's calm?

4 A. No. What I said was that is calmer than  
5 points that he reached. So although he is screaming  
6 and moving around, it is not to the point that he  
7 escalated to. There were points throughout the  
8 contact with him that, yes, he was screaming, but he  
9 was calmer than at other times during the contact.

10 (Video begins to play.)

11 (Video stops playing.)

12 Q. Okay. You see at this point, at 2:14 or  
13 so, that he is repeatedly slamming his head into the  
14 various parts of the car? Does that --

15 A. Oh, yes, ma'am.

16 (Video begins to play.)

17 (Video stops playing.)

18 Q. Okay. And so it's about that time, 2:16 or  
19 so, you say, Quit hitting your fucking head, right?

20 A. Yes, ma'am.

21 Q. And at that point, he's slamming it back  
22 and forth, from the back seat into the cage, right?

23 MR. TOOLEY: Objection, form.

24 A. I don't know if he was hitting the back  
25 seat or not, but I know the front.

WILLIAM HEIDELBERG

1 Q. (By Ms. Hutchison) Okay. Let's look.

2 (Video begins to play.)

3 (Video stops playing.)

4 A. Yeah, it looks like he hits the back.

5 Q. And then slamming it forward into the cage?

6 A. Yes, ma'am.

7 Q. So at that point, why did you tell him to  
8 quit hitting his head?

9 A. To get him to stop -- try to get him to  
10 stop banging his head on the cage.

11 Q. Why?

12 A. Because that's not normal.

13 Q. So why did you want him to stop?

14 A. To prevent injuring himself.

15 Q. So you were aware at that time that that  
16 behavior could cause him injury?

17 A. Yes, ma'am.

18 (Video begins to play.)

19 (Video stops playing.)

20 Q. When you said that, he yelled, I don't know  
21 what the F I'm doing, right?

22 A. Uh-huh, yes, ma'am.

23 Q. Does that indicate to you any kind of a  
24 rational response to what you said to him?

25 A. To be honest with you, I don't know if I

WILLIAM HEIDELBERG

1 understood that night what he said. There's a lot of  
2 stuff that going back and being able to watch video  
3 that you can make out, but in the heat of the moment,  
4 a lot of that stuff is unintelligible. I couldn't  
5 understand him, a lot of the things that he said.

6 Q. Did he respond rationally to your commands  
7 to stop hitting his head?

8 A. No, ma'am.

9 (Video begins to play.)

10 (Video stops playing.)

11 Q. In fact, right after you told him to stop,  
12 he did it again, correct?

13 A. Yes, ma'am.

14 (Video begins to play.)

15 (Video stops playing.)

16 Q. Could you make out what was said over the  
17 radio?

18 A. "71, we're pulling over," or something to  
19 that effect.

20 Q. Was that you?

21 A. No, ma'am.

22 Q. So at 2:38, somebody on the radio says,  
23 We're pulling over?

24 A. Officer Gafford.

25 Q. Was it Officer Gafford pulling over, or

WILLIAM HEIDELBERG

1 Q. So before Officer Gafford begins tasing  
2 Graham, what have you done to restrain him?

3 A. Well, when he -- like I said, when I first  
4 opened the door, he leaned out. I put my hand in.  
5 He then laid back in the seat. So by this time, that  
6 leg restraint is not in the door anymore. I squatted  
7 down in the corner where that door opens trying to  
8 pull that leg restraint down into the corner of the  
9 door so we could resecure it.

10 Q. So prior to the time that Graham gets tased  
11 by Officer Gafford, did you do anything to restrain  
12 him against the back seat?

13 A. No, because he laid back over in the seat.  
14 I couldn't restrain him against the back of the seat  
15 since he laid down across the seat to the other side.

16 Q. Okay. And that's not something you  
17 anticipated happening?

18 A. For him to lay down?

19 Q. Yes. Wasn't he doing that periodically  
20 while you were transporting him?

21 A. Watching the video I can tell that, but at  
22 the time I didn't know that.

23 Q. But you knew he was flinging himself around  
24 inside the car.

25 A. I knew he was hitting his head off the



WILLIAM HEIDELBERG

1 cage, yes, ma'am. I didn't know he was laying across  
2 the seat, no, not until after the fact when I got to  
3 watch the video.

4 Q. So you didn't anticipate that he would  
5 fling himself around in the back of the car when you  
6 opened the door?

7 A. I didn't anticipate him laying down across  
8 the seat.

9 Q. And is that why Officer Gafford was tasing  
10 him?

11 A. I don't know why Officer Gafford tased  
12 him. I was squatted down trying to get his leg  
13 restraints back into the door.

14 Q. How are you going to secure the leg  
15 restraints in the door when it's opened?

16 A. If you look at this video right here where  
17 my hand is, that leg restraint is wrapped around his  
18 ankles. There's a strap that hangs off of it.

19 Q. Right.

20 A. You have to pull that strap out of the car  
21 and down to be able to close the door on top of it.  
22 I was pulling the leg restraints trying to get that  
23 flap that has the -- it's like a bracket or something  
24 that keeps it from sliding back through the door when  
25 it's closed. I was trying to pull that out of the

WILLIAM HEIDELBERG

1 car, which, in turn, we could close the door and  
2 secure those leg restraints.

3 Q. My question is, you can't secure the leg  
4 restraints with the car door open, can you?

5 A. No. It's not secure until it's closed.

6 Q. So during the time that Officer Gafford is  
7 tasing Graham, there's no way to secure the leg  
8 restraints, is there?

9 A. Not until the door is closed, no.

10 Q. Okay. Then why not just pull the flap down  
11 and close the door?

12 A. That's what I was attempting to do.

13 Q. So why was it necessary for Officer Gafford  
14 to tase him?

15 A. I don't know.

16 MR. TOOLEY: Objection, form.

17 A. I didn't tase him. I don't know. I can't  
18 speak for Officer Gafford.

19 Q. (By Ms. Hutchison) Did you, yourself, see  
20 any necessity for tasing Graham at the time?

21 A. In my point of view from where I was at  
22 holding onto his legs, no, I did not feel the need to  
23 tase him.

24 Q. And at this point, Officer Scott -- does he  
25 have Graham by the hair yet?

WILLIAM HEIDELBERG

1 A. Yes, ma'am.

2 Q. Well, doesn't Officer Scott still have him  
3 by the hair?

4 A. Yes, ma'am.

5 Q. Is there any way he can sit up or raise his  
6 head?

7 MR. TOOLEY: Objection, form.

8 A. No, but you can see the tension go out of  
9 his body. Like he stops tensing and pulling his  
10 legs.

11 Q. (By Ms. Hutchison) So you're saying at  
12 3:19, that, in your mind, Graham is calm?

13 A. Like I said, I'm not saying that this  
14 gentleman is 100 percent calm. I'm saying he is  
15 calmer than he is at points. I don't think at any  
16 point in time that we dealt with him he was  
17 completely 100 percent calm.

18 Q. Is it your testimony that what you and  
19 Officer Scott and Officer Gafford did was effective?

20 A. At this point, yes, ma'am.

21 Q. At the point where Officer Scott has him by  
22 the hair?

23 A. Yes, at this point right here at 3:19.

24 (Video begins to play.)

25 (Video stops playing.)

WILLIAM HEIDELBERG

1 Q. Are you still saying that Graham is calm  
2 during this time where he's yelling, What the F was  
3 that, and, Where the F am I?

4 MR. TOOLEY: Objection, form.

5 A. Not at this point, no, ma'am.

6 Q. (By Ms. Hutchison) And Officer Scott still  
7 has him by the hair, right?

8 A. Yes, ma'am.

9 (Video begins to play.)

10 (Video stops playing.)

11 Q. And he begins banging his head and flinging  
12 himself around again, correct?

13 A. I don't think he hit his head on anything.

14 Q. At 3:47, he's flinging himself around,  
15 correct?

16 A. Yes, ma'am.

17 Q. So do you believe that what you three  
18 officers did to Graham was effective?

19 A. Not at this point. I believe it was  
20 effective at the point that it was used.

21 (Video begins to play.)

22 (Video stops playing.)

23 Q. So you then secure his feet back in the car  
24 door, correct?

25 A. Yes, ma'am.

WILLIAM HEIDELBERG

1 him and holding him by the hair would calm him down?

2 A. I can't say that because I didn't tase him.

3 (Video begins to play.)

4 (Video stops playing.)

5 Q. So then the door closes -- the other door  
6 where Officer Scott is closes at about 4:20, 4:22,  
7 right?

8 A. Yes, ma'am.

9 Q. Was there any other attempt to do anything  
10 to assist Graham in the back of the police car after  
11 that?

12 A. No, ma'am.

13 Q. And him hitting his head after that  
14 actually increased, didn't it?

15 MR. TOOLEY: Objection, form.

16 A. Yes, ma'am.

17 (Video begins to play.)

18 (Video stops playing.)

19 Q. (By Ms. Hutchison) So was there any  
20 particular reason that you did not get on your radio  
21 and ask for some kind of assistance?

22 A. No, ma'am.

23 Q. Did you feel like you had the situation  
24 under control?

25 A. I wouldn't necessarily say he was under

WILLIAM HEIDELBERG

1 control, but we were right down the street from the  
2 jail. I figured the quicker we got to the jail, the  
3 quicker we'd get him out of that car.

4 Q. And what did you do to assess whether or  
5 not he sustained any kind of an injury from slamming  
6 his head into the cage and into the side of the car?

7 MR. TOOLEY: Objection, form.

8 A. I don't know.

9 Q. (By Ms. Hutchison) Nothing?

10 A. I don't recall anything, no, ma'am.

11 Q. Are you aware of any other officer doing  
12 anything to assess whether or not Graham sustained an  
13 injury from what happened to him in the back of the  
14 police car?

15 A. I'm not aware.

16 Q. Are you aware of any officer asking anyone  
17 else to assess whether or not Graham had sustained  
18 any injuries in the back of the police car?

19 A. No, ma'am.

20 Q. Is there any particular reason?

21 A. You know, once we get to the jail, that's  
22 generally the jail supervisor that makes the  
23 determination whether or not to call an ambulance or  
24 whatever else.

25 Q. Did you tell the jail supervisor about what

WILLIAM HEIDELBERG

1 was happening with Graham in the back of your car?

2 A. I don't remember exactly what was said to  
3 Sergeant Caldwell. I don't remember.

4 Q. Do you remember having a discussion with  
5 him about Graham's condition?

6 A. I don't.

7 Q. Why wouldn't you have told him about what  
8 you observed Graham doing in the back of the car?

9 A. I may -- I don't recall. I don't know if I  
10 told him. I don't remember having a conversation  
11 about it. I don't know if another officer told him.  
12 I don't know.

13 Q. So after Graham got to the station and was  
14 restrained in his chair, you weren't aware of him  
15 sustaining any injuries after that period of time,  
16 are you?

17 A. No, not that I'm aware of.

18 Q. So it would be fair to say that all of the  
19 injuries that Graham sustained would have been prior  
20 to him arriving at the jail?

21 MR. TOOLEY: Objection, form.

22 A. Yes, ma'am.

23 Q. (By Ms. Hutchison) Have you looked at the  
24 autopsy report in this case?

25 A. No, ma'am.

## WILLIAM HEIDELBERG

1 Q. When Graham was in the sally port, did you  
2 observe any injuries on him?

3 A. Yeah. I observed a knot on his forehead.

4 Q. Anything else?

5 A. I don't remember. I think he may have had  
6 some scratches or something on him.

7 Q. Was he coherent?

8 A. Yes, ma'am.

9 Q. And what was he saying that you believed  
10 was coherent?

11 A. I don't recall. I know he was screaming.

12 Q. But was he articulating anything in  
13 particular?

14 A. No, not that I remember. No, ma'am.

15 Q. Was he able to walk?

16 A. I don't know.

17 Q. Or able to stand?

18 A. I don't know that either.

19 Q. Did you help carry him into the jail?

20 A. Yes, ma'am.

21 Q. Is there any particular reason why you guys  
22 didn't do the same thing you did at the middle  
23 school, stand him up and walk him in?

24 A. From the time that we first walked in and  
25 escorted him to the car, things had changed a little



WILLIAM HEIDELBERG

1 A. Looks like he's restraining his head.

2 Q. Trying to stop Graham from hitting his head  
3 on the floor?

4 MR. TOOLEY: Objection, form.

5 A. Yes.

6 Q. (By Ms. Hutchison) Is that Officer Scott?

7 A. Yes, ma'am.

8 Q. What are you doing at this point?

9 A. I believe I still have ahold of his arms.  
10 I can't tell, though.

11 (Video begins to play.)

12 (Video stops playing.)

13 Q. Did you hear someone say, He'll start  
14 slamming his head here in a minute?

15 A. Yes, ma'am.

16 Q. Do you know who that was?

17 A. Officer Gafford.

18 (Video begins to play.)

19 (Video stops playing.)

20 Q. Okay. You see here at about 2:36, Officer  
21 Scott is still down on one knee, but he's not holding  
22 Graham's head down, is he?

23 A. It looks like he's holding it up away from  
24 the floor.

25 Q. And then who is it that's holding Graham's

WILLIAM HEIDELBERG

1 arms up behind him?

2 A. Me.

3 Q. Are you the only two restraining him at  
4 this point?

5 A. I believe Officer McCloud has got his  
6 legs. I can't tell for sure from this angle, but I  
7 believe so.

8 Q. And so is Officer Scott holding Graham's  
9 head up by his hair again?

10 A. I believe so.

11 Q. So at this point, Officer Scott is holding  
12 Graham's head up by his hair. You're holding his  
13 arms up behind him cuffed, and one other officer is  
14 holding his legs, right?

15 A. I'm pretty sure about the officer holding  
16 his legs, but I know for sure myself and Officer  
17 Scott.

18 Q. And what's the plan with what you're going  
19 to do with Graham at this point?

20 A. I believe we're waiting on the jail  
21 sergeant to figure out where he's going to go inside  
22 the jail once we get him in there.

23 (Video begins to play.)

24 (Video stops playing.)

25 Q. So up until now, have you seen Graham do

WILLIAM HEIDELBERG

1 that's not accurate, is it?

2 A. Assisted. No, not technically carry him,  
3 but he was assisted.

4 Q. Well, aren't all suspects assisted to the  
5 patrol unit?

6 A. Yes, ma'am.

7 Q. You say in here that "Graham attempted to  
8 slam his head against the trunk of the patrol unit  
9 multiple times." Did you see that?

10 A. I don't remember if that was from another  
11 officer or if I remembered that.

12 Q. And then you say in the second paragraph on  
13 the second page that "Officer Fyall deployed his  
14 department-issued Taser X2 and delivered a drive-stun  
15 to Dyer's outside right calf for approximately five  
16 seconds," right?

17 A. Yes, ma'am.

18 Q. And that's information you got, you  
19 believe, from Officer Houston?

20 A. I believe so.

21 Q. And the last paragraph on this particular  
22 page says, "While en route to the jail, Dyer began  
23 slamming his head repeatedly into the cage of the  
24 patrol unit." And then you continue on that he had  
25 to be restrained and that you then continued to the

WILLIAM HEIDELBERG

1 jail. But you make no mention of Graham being tased  
2 by Officer Gafford in that, did you?

3 A. I was not aware of it that night.

4 Q. You were not aware that Officer Gafford  
5 tased Graham in the back of your car?

6 A. No, ma'am.

7 Q. Weren't you the one standing right next to  
8 him when it happened?

9 A. I was squatted down in the door frame, but  
10 I didn't -- that's what I said a while ago. I didn't  
11 see that.

12 Q. So it's your testimony that you were  
13 squatted down in the door frame immediately next to  
14 Officer Gafford and you did not see that tasing  
15 happen?

16 A. Yes, ma'am.

17 Q. And you didn't hear it?

18 A. Not with him screaming, no. Like I said,  
19 there's a lot of things that you can go back and  
20 watch video on that you can pick up on that you don't  
21 hear in the heat of the moment with your adrenaline  
22 flowing.

23 Q. What was it that you believe happened to  
24 Graham in the back of your car that calmed him down?

25 A. After watching the video, I know what it

WILLIAM HEIDELBERG

1 was, but at that time I didn't know.

2 Q. Then why did you decide to close the doors  
3 and continue on to the police station?

4 A. Because I was able to get the leg restraint  
5 resecured.

6 Q. Well, the leg restraint was secured before  
7 you opened the door in the first place, wasn't it?

8 A. Yes, ma'am.

9 Q. My question to you is, why did you  
10 decide -- if you didn't know that Graham was tased in  
11 the back of your patrol unit, why did you just close  
12 his leg restraint back inside the door and continue  
13 on to the police station without doing anything?

14 A. What do you mean without doing anything?

15 Q. Well, did you have any knowledge that  
16 anything was done to Graham in the back of the car?

17 A. No.

18 Q. Then my question is, if you didn't have any  
19 knowledge that anything was done to him in the back  
20 of the car, then why did you close the doors and  
21 continue on to the police station?

22 A. Because when I stopped the car, my goal was  
23 to go back there and attempt to calm him down to keep  
24 him from hitting his head. Whenever his legs -- you  
25 know, whenever he relaxed his legs enough for me to

WILLIAM HEIDELBERG

1 get the leg restraint secured back in the door,  
2 that's what I did. And I resecured the leg restraint  
3 through the door.

4 Q. Without any attempt to calm him down?

5 A. Like I said, my intent was to either hold  
6 him against the back seat, try to stop -- limit his  
7 movements. But at the point when he laid over in the  
8 seat, I can't -- I can't do that from there.

9 Q. So my question to you is, as far as you  
10 knew, nothing had been done to calm Graham down,  
11 correct?

12 A. No. Other than him kind of relaxing his  
13 legs where I was able to get the leg restraints  
14 resecured, no. That's why it's not in this report  
15 because I was not aware of it. When I did this  
16 report, I wasn't aware that Officer Fyall had used  
17 his Taser. And before I went to get it signed off  
18 on, I was informed of that by Houston.

19 Q. So Officer Fyall got medical treatment for  
20 his finger at the scene from the paramedics, correct?

21 A. That's what I was told.

22 Q. And then somebody took photographs of his  
23 injury. It was logged into the Mesquite crime scene  
24 as evidence, correct?

25 A. That's what I was told, yes, ma'am.

WILLIAM HEIDELBERG

1 I can recall.

2 Q. Okay. But your training and education  
3 involves what to expect when you encounter someone  
4 out in the field who's on some sort of mind-altering  
5 drug, correct?

6 A. Yes, ma'am.

7 Q. And what did you know back then about what  
8 types of things you might expect from that person?

9 A. In particular, LSD -- I mean, I couldn't  
10 tell you a particular effect of LSD, but, you know,  
11 obviously we know that it affects your behavior and  
12 it affects all of your body functions.

13 Q. And what did you believe were the dangers  
14 that Graham posed to himself?

15 A. Obviously, you know, he didn't seem to be  
16 in control of his own body, so, you know, at that  
17 point we can't just let him walk home. I believe he  
18 posed a danger to the public if he came into contact  
19 with anybody. It was obviously enough to draw  
20 attention from someone who called us.

21 Q. But I'm not talking about other people.  
22 I'm talking about what dangers did he pose to  
23 himself?

24 A. Not having control of his, you know, mental  
25 and physical actions. You know, no telling what

WILLIAM HEIDELBERG

1 could have happened.

2 Q. Is there any way to be any more specific  
3 than that about how you thought he was dangerous to  
4 himself? Like in what way? What kind of harm might  
5 he pose to himself?

6 A. Well, you know, based on his actions at the  
7 school, I definitely feel that he was a harm to  
8 himself. You know, if he can't control his body and  
9 he's wanting to, you know, hit his head off of things  
10 and things like that, and he can't control that,  
11 then, yeah, I believe he was a danger to himself.

12 Q. So you were aware that he posed a physical  
13 danger to himself at the time?

14 A. Yes, ma'am.

15 Q. And he carried that out to some extent in  
16 the back of your police car?

17 A. Yes, ma'am.

18 MS. HUTCHISON: Give me about a  
19 two-minute break and I might be wrapping it up.

20 (Recess taken from 3:25 to 3:30.)

21 Q. (By Ms. Hutchison) So can you describe  
22 what you did during the stop when you opened the  
23 door, stopped Graham's head, and then he kind of  
24 leaned over on the seat? What was the next thing  
25 that you did?



WILLIAM HEIDELBERG

1 I further certify that I am neither counsel for,  
2 related to, nor employed by any of the parties or  
3 attorneys in the action in which proceeding was  
4 taken, and further that I am not financially or  
5 otherwise interested in the outcome of the action.

6  
7 Certified to by me this 12th day of August,  
8 2017.

9  
10   
11

12  
13 LAURIE PURDY, CSR 5933  
14 Certification Expires: 12-31-2018  
15 Laurie Purdy Reporting Service, Inc.  
16 2212 Wood Cliff Court  
17 Arlington, Texas 76012  
18 T 817-988-4348  
19 Firm ID Number: 582  
20  
21  
22  
23  
24  
25

LAURIE PURDY REPORTING SERVICE, INC.